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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/389,201	09/02/1999	JAMES JOSEPH BABKA	AT9-99-357	5061

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EXAMINER

TANG, KENNETH

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/389,201

Applicant(s)

BABKA ET AL.

Examiner

Kenneth Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This final action is in response to Paper Number 4, received on 7/31/03. Applicant's arguments have been fully considered but they are not deemed to be persuasive. Claims 1-16 are presented for examination.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 9-10, 12-14, and 16 are rejected under 35 U.S.C. 103(a) as being obvious over Mann (US 6,295,534 B1) in view of Rathbun (US 6,138,123).**

2. Referring to claims 1, 9, and 13, Mann teaches a method, system and program for tracking activities in a data processing system, comprising the steps of:

- maintaining an ordered list of activities running in the system [*"apparatus for maintaining an ordered list", see title*];
- inserting the new activity at a top of the list [*"push operation whereby a new data item is stored in the index unit corresponding to a specified address", col. 3, lines 9-20. The "control circuitry 42" functions to receive the "push signal" (col. 4, lines 24-31)*];

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- removing the completed activity from the ordered list;

Mann fails to explicitly teach inserting and removing whenever an activity begins and is finished, respectfully. However, it is common knowledge in the art that new items/activities to the data structure should be added or inserted to the ordered list. And likewise, it is common knowledge in the art that items/activities that are completed should be removed from the ordered list. The motivation for doing this would be for improving the control of data. If there are activities, they should be in the ordered list so that there could be fast, efficient maintenance of the ordered list of data [see abstract].

Mann also fails to explicitly teach:

- displaying the activity that is at the top of the list.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of displaying the activity that was of interest, or in this particular case, the activity at the top of the list for the reason of improving the usability for the user. It would be convenient to the user if it had displayed the activity of interest.

Mann also fails to explicitly teach the activities in the ordered list are running in parallel.

However, Rathbun teaches the use of ordered lists in parallel form [*“parallel data-structures”, “maintenance programs”, col. 3, lines 50-55*]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of parallel processing for the reason of increasing the speed and power of the system for maintenance of the ordered lists of data [*“The goal in parallel processing is to utilize a number of processors (P) to increase the system’s speed and power by a factor of P”, “maintenance of ordered lists of data”, col. 1, lines 58-67*].

3. Referring to claims 2, 10, and 14, Mann fails to explicitly teach the method and system as recited in claims 1, 9, and 13, respectively, wherein the displaying step displays a code pertaining to the latest-started activity that has not completed. Likewise to the rejection stated in claim 1, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of displaying the activity that was of interest, or in this particular case, the activity at the top of the list for the reason of improving the usability for the user. It would be convenient to the user if it had displayed the activity of interest.

4. Referring to claims 12 and 16, Mann fails to explicitly teach the program as recited in claims 9 and 13, respectfully, wherein the displaying step further comprises the steps of and system circuitry for:

- determining if an activity that has completed is currently being displayed;
- if the activity that has completed is currently being displayed, displaying an activity that had previously been displayed.

Likewise to the rejection stated in claim 1, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of displaying the activity that was of interest, or in this particular case, the activity at the top of the list for the reason of improving the usability for the user. It would be convenient to the user if it had displayed the activity of interest. It is also inherent that there are condition statements created and set by the programmer that make the decisions on whether or not the activity is to be displayed.

**Claims 3, 11, and 15 are rejected under 35 U.S.C. 103(a) as being obvious over Mann (US 6,295,534 B1) in view of Rathbun (US 6,138,123) and further in view of Dinwiddle, Jr. et al. (hereinafter Dinwiddle) (US 5,113,522).**

5. Referring to claims 3, 11, and 15, Mann and in view of Rathbun fails to explicitly teach the method as recited in claims 1, 9, and 13, respectfully, wherein the activities are configurations of devices attached to the data processing system. However, Dinwiddle teaches configurations of devices attached to a processing system [*“device”, “configured I/O devices”, col. 84, line 55*]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of the activities being configured of devices attached to the data processing system for the reason of increasing the functionality of the system by communicating with and utilizing other devices.

#### ***Response to Arguments***

6. Examiner has fully considered the Applicant's argument with regards to 35 U.S.C. 112. Examiner has found the argument to be persuasive and this rejection has been withdrawn.

7. *Applicant argues with respects to claims 1-2, 9-10, 12-14 and 16 that rejections based on 35 U.S.C. 103(a) are not valid because the motivation for combining references are based from Examiner's subjective opinion.*

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the

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teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (703) 305-5334. The examiner can normally be reached on 9:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

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October 1, 2003

  
M. A. BANANKHAH  
PRIMARY EXAMINER